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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,150	08/27/2004	James Anderson	81101894 / FMC 1772 PUS	5149
28395	7590	12/19/2005	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			GATES, ERIC ANDREW	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tm

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,150	ANDERSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/27/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-8 and 17-20 in the reply filed on 18 November 2005 is acknowledged.
2. Claims 9-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 18 November 2005.

### *Drawings*

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "180" and "182" have both been used to designate the wheels in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3722

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 152, 154, and 194. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 5, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Koffsky et al. (U.S. Patent 4,889,290).

7. Regarding claim 1, Koffsky et al. discloses a machining system 10/12/14/16/18, the machining system comprising: a housing 16 defining a portion of the machining envelope; a hopper 126 having a top surface (not labeled, see Figure 5) defining an

Art Unit: 3722

opening; a seal 116 disposed between the housing and the top surface; wherein the hopper is configured to receive particulates when positioned below the machining envelope.

8. Regarding claim 3, Koffsky et al. discloses that the hopper further comprises a bottom panel and a set of wheels disposed proximate the bottom panel (not labeled, see Figure 1 and 4-5).

9. Regarding claim 5, Koffsky et al. discloses the machining system further comprising a funnel (not labeled, next to label 112 in Figures 4-5) adapted to direct particulates into the hopper 126 disposed on the housing above the hopper and below the machining envelope.

10. Regarding claim 17, Koffsky et al. discloses a housing 16/18 including: an upper portion 16 defining a machining envelope; a lower portion 18 disposed proximate the upper portion, the lower portion having an access port (not labeled, ramp side of Figure 1); and a mating portion 110 disposed proximate the upper and lower portions defining a first aperture (not labeled, hole defined by 112 and 114 in Figures 4-5), the mating portion having a bottom surface 114; and a chip hopper 126 adapted to be inserted through the access port into the lower portion, the chip hopper including: a top surface (not labeled, see Figures 4-5) defining a second aperture; and a seal 116 disposed on the top surface; wherein the seal is adapted to engage the bottom surface 114 of the mating portion to prevent particulates from exiting the housing.

11. Regarding claim 18, Koffsky et al. discloses wherein the lower portion 18 further comprises a second access port (not labeled, side opposite ramp in Figure 1) adapted

Art Unit: 3722

to permit removal of the chip hopper 126 disposed opposite the first access port (capability to remove chip hopper through second access port exists).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2, 6, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffsky et al. in view of McGregor et al. (U.S. Patent 6,112,504).

14. Regarding claims 2 and 19, Koffsky et al. discloses the invention substantially as claimed, except Koffsky et al. does not disclose the system further comprising a lift platform adapted to raise the hopper to position the seal adjacent to the housing and the top surface. McGregor et al. teaches the use of a lift platform 27 for the purpose of raising a hopper 12 as necessary to position a seal 18. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the system of Koffsky et al. with the lift of McGregor et al. in order to have a system that is able to have the hopper repositioned as necessary.

15. Regarding claim 6, Koffsky et al. discloses the invention substantially as claimed, except Koffsky et al. does not disclose a blower adapted to blow particulates into the hopper. McGregor et al. teaches the use of a blower 38 for the purpose of blowing particulates into the hopper 12. Therefore it would have been obvious to one having

Art Unit: 3722

ordinary skill in the art at the time the invention was made to have combined the system of Koffsky et al. with the blower of McGregor et al. in order to have a system that more effectively directs the particulates into the hopper.

16. Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffsky et al. in view of Demarco (U.S. Patent Publication 2003/0131571 A1).

17. Regarding claims 4 and 20, Koffsky et al. discloses the invention substantially as claimed, except Koffsky et al. does not disclose at least one channel adapted to receive a forklift fork disposed proximate the bottom panel. Demarco teaches a hopper 18 that can be equipped with forklift channels 20 and 22 for the purpose of receiving and being moved by the tines of a forklift truck. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the system of Koffsky et al. with the forklift channels of Demarco in order to have a system that can be more easily removed from the machine system.

18. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffsky et al. in view of McGregor and further in view of Demarco.

19. Regarding claims 7 and 8, Koffsky et al. discloses the invention substantially as claimed, except Koffsky et al. does not disclose the hopper further comprises a housing vent disposed below the funnel and a filter adapted to allow pressurized air to exit the hopper and prevent particulates from exiting the hopper disposed proximate the housing vent. Demarco teaches the use of a vent pipe 354 and vent flap 356 and a filtering unit 222 for the purpose of allowing purified air to be released to the atmosphere. Therefore it would have been obvious to one having ordinary skill in the art at the time the



Art Unit: 3722

invention was made to have combined the system of Koffsky et al. with the vent and filter of Demarco in order to have a system that runs cleaner and is more environmentally friendly.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art includes inventions with various hopper devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-5:15 & alt Fridays 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



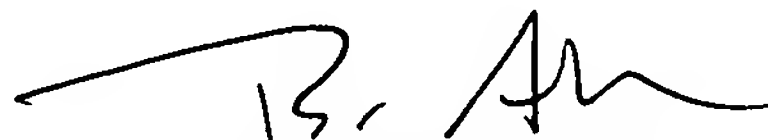
Art Unit: 3722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG  
5 December 2005

Eric A. Gates  
Patent Examiner  
Art Unit 3722



BOYER D. ASHLEY  
PRIMARY EXAMINER